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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CLARENCE W. HARRIS,

Defendant and Appellant.

B210344

(Los Angeles County  
Super. Ct. No. PA060909)

APPEAL from a judgment of the Superior Court of Los Angeles County, Harvey Giss, Judge. Affirmed.

David McNeil Morse, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Clarence W. Harris appeals from the judgment entered following his plea of no contest to petty theft with a prior (Pen. Code, § 666)<sup>1</sup> and his admission that he previously had been convicted of a felony within the meaning of the Three Strikes law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)). The trial court sentenced Harris to four years in prison. We affirm the judgment.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### *1. Facts.*<sup>2</sup>

At approximately 3:00 p.m. on February 9, 2008, Loss Prevention Agent Sergio Ramirez was working at the Rite-Aid store located at 13237 Gladstone Avenue in Sylmar. By way of a video camera, Ramirez observed Harris walk from the front of the store to the liquor aisle, select a 750-milliliter bottle of Smirnoff Vodka worth \$14.99, take it from the shelf, conceal it in the waistband of his trousers and cover it with his shirt. Harris then walked past several manned cash registers and out of the store. Ramirez followed Harris, approached him and escorted him back to a room in the back of the store. Ramirez then contacted the police.

When police officers arrived, they placed Harris under arrest. At that time, he had 33 cents on his person. Harris told the officers, “ ‘I know I messed up. I just [wanted] a drin[k] and I got caught.’ ”

### *2. Procedural history.*

Following the preliminary hearing, the trial court denied Harris’s motion to dismiss the charges against him and, instead, held Harris to answer to the crimes of second degree commercial burglary (§ 459) and petty theft with a prior (§ 666). An information charging the crimes was filed on June 13, 2008. In addition to the substantive offenses, the information alleged Harris previously had served prison terms

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

<sup>2</sup> The facts have been taken from the probation report and the transcript of the preliminary hearing.

within the meaning of section 667.5 for two convictions of petty theft with a prior (§ 666), one conviction of robbery (§ 211) and one conviction of possession of a controlled substance (Health & Saf. Code, § 11350). Finally, it was alleged that Harris had suffered a prior conviction for robbery within the meaning of sections 667, subdivisions (b) to (i) and 1170.12, subdivisions (a) to (d), the Three Strikes law.

At proceedings held on July 14, 2008, Harris was advised of and waived his right to a jury or court trial, his right to subpoena witnesses and present a defense, his right to confront and cross-examine the witnesses against him and his privilege against self-incrimination. He then, pursuant to a negotiated agreement, pleaded no contest to petty theft with a prior (§ 666) and admitted previously having been convicted of robbery (§ 211) within the meaning of the Three Strikes law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)).

The trial court sentenced Harris to the mid-term of two years for his conviction of petty theft with a prior, then doubled the term to four years pursuant to the Three Strikes law. Harris was awarded credit for 157 days actually served and 78 days of good time/work time, for a total of 235 days. The trial court ordered Harris to pay a restitution fine in the amount of \$800 (§ 1202.4) and a \$20 court security fee (§ 1465.8, subd. (a)(1)). It ordered, then stayed an \$800 parole revocation restitution fine (§ 1202.45). After the trial court dismissed in the interest of justice all remaining allegations, it ordered Harris remanded to the custody of the sheriff and delivered to the Department of Corrections.

Harris filed a timely notice of appeal on August 21, 2008.

This court appointed counsel to represent Harris on appeal on October 29, 2008.

### **CONTENTIONS**

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record. By notice filed February 3, 2009, the clerk of this court advised Harris to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider. No response has been received to date.

### **REVIEW ON APPEAL**

We have examined the entire record and are satisfied Harris's counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

### **DISPOSITION**

The judgment is affirmed.

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ALDRICH, J.

We concur:

KLEIN, P. J.

CROSKEY, J.